

176017



FILED
08093005

BellSouth Telecommunications, Inc.
Legal Department
1600 Williams Street
Suite 5200
Columbia, SC 29201

patrick.turner@bellsouth.com

Patrick W. Turner
General Counsel-South Carolina

803 401 2900
Fax 803 254 1731

SC PUBLIC SERVICE
COMMISSION

September 29, 2005

Mr. Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Petition to Establish Generic Docket to Consider Amendments to
Interconnection Agreements Resulting From Changes of Law
Docket No. 2004-316-C

Dear Mr. Terreni:

Enclosed for filing are the original and twenty-five copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony of Kathy K. Blake, Eric Fogle, and Pamela A. Tipton in the above-referenced matter. By copy of this letter, BellSouth is serving this testimony on all parties of record to this docket.

Sincerely,

Patrick W. Turner

PWT/nml
Enclosure
cc: All Parties of Record
DM5 #603500

SC PUBLIC SERVICE
COMMISSION

2005 SEP 29 PM 3:17

RECEIVED

OK DBDuke
OK DBDuke

1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 REBUTTAL TESTIMONY OF KATHY K. BLAKE
3 BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
4 DOCKET NO. 2004-316-C
5 SEPTEMBER 29, 2005

RECEIVED
2005 SEP 29 PM 3:17

6
7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8 TELECOMMUNICATIONS, INC. ("BELLSOUTH"), AND YOUR
9 BUSINESS ADDRESS.

10
11 A. My name is Kathy K. Blake. I am employed by BellSouth as Director – Policy
12 Implementation for the nine-state BellSouth region. My business address is
13 675 West Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

16
17 A. Yes. I filed Direct Testimony on August 23, 2005.

18
19 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

20
21 A. My rebuttal testimony responds to portions of the Direct Testimony filed by
22 Joseph Gillan, on behalf of the Competitive Carriers of the South, Inc.
23 ("CompSouth"), the Direct Testimonies filed by Jerry Watts and Mary
24 Conquest, on behalf of ITC^DeltaCom Communications, Inc. ("DeltaCom"),

1 and Wanda G. Montano, on behalf of US LEC of South Carolina, Inc. on
2 August 23, 2005.

3

4 Q. DO YOU HAVE ANY GENERAL COMMENTS REGARDING THE
5 TESTIMONY FILED IN THIS PROCEEDING?

6

7 Yes. DeltaCom's witness, Ms. Conquest, discusses in detail BellSouth's Bulk
8 Migration process. While she tries to address DeltaCom's concern relating to
9 the Bulk Migration process under Issue 2 of the Joint Issues Matrix, filed with
10 the Public Service Commission of South Carolina ("Commission") on June 29,
11 2005, Issue 2 actually has to do with the appropriate language to implement the
12 Federal Communications Commission's ("FCC's") transition plan. Issue 2
13 does not speak to the actual processes and procedures used to effectuate such
14 transition. The processes and procedures related to BellSouth's Bulk
15 Migration process are not an issue in this proceeding. As a key member of
16 CompSouth,¹ DeltaCom had the opportunity during issue identification
17 between BellSouth and CompSouth to request and include an issue relating to
18 BellSouth's hot cut process on the Joint Issues Matrix. It did not do so. As
19 such, Ms. Conquests' testimony is outside the scope of this proceeding and
20 should not be considered in the Commission's determinations.

21

22 Q. ON PAGE 4 OF HIS DIRECT TESTIMONY, MR. GILLAN SUGGESTS
23 THAT THIS PROCEEDING IS "ABOUT MAKING *DIFFERENT*

¹ Jerry Watts, one of DeltaCom's witnesses in this proceeding, is the current President of CompSouth.

1 OFFERINGS AVAILABLE” IN PLACE OF THOSE ELEMENTS THAT
2 ARE NO LONGER REQUIRED TO BE OFFERED PURSUANT TO
3 SECTION 251(C)(3) OF THE TELECOMMUNICATIONS ACT OF 1996
4 (THE “ACT”). DOES THE COMMISSION HAVE JURISDICTION OVER
5 SECTION 271 OFFERINGS?
6

7 A. Although I am not a lawyer, I understand the answer to that question to be
8 “No”. What Mr. Gillan advocates is for this Commission to require that
9 BellSouth “offer through approved interconnection agreements each of the
10 network elements listed in the competitive checklist of § 271, albeit at a
11 (potentially) different price.” As BellSouth described at length in its summary
12 judgment briefs, this Commission does not have jurisdiction over section 271
13 elements, nor are section 271 elements to be included in section 252
14 interconnection agreements. Thus, Mr. Gillan’s entire premise that “this
15 proceeding is not simply about making less available to the [competitive local
16 exchange carriers (“CLECs”)], it is also about making different offerings
17 available in their place” is incorrect.
18

19 Q. THAT BEING SAID, DOES BELL SOUTH CURRENTLY OFFER ANY
20 SERVICES THAT ARE “*DIFFERENT*” FROM, AND TAKE THE PLACE
21 OF, THOSE ELEMENTS THAT ARE NO LONGER REQUIRED TO BE
22 UNBUNDLED?
23

24 A. Yes. Almost a year and half ago, in response to the D.C. Circuit Court of
25 Appeals’ vacatur of the FCC’s rules associated with mass-market switching,

1 BellSouth developed and began offering CLECs a commercial wholesale
2 service which included stand-alone switching and DS0 loop/switching
3 combinations (including what was known as UNE-P) at commercially
4 reasonable and competitive rates. To date, over 150 CLECs have executed
5 commercial agreements containing negotiated terms and conditions relating to
6 the provision of BellSouth's Wholesale DS0 Platform.

7
8 With respect to high capacity loops and dedicated transport, BellSouth
9 currently offers, pursuant to its special access and private line tariffs, services
10 that are comparable to these loop and transport elements that are no longer
11 required to be unbundled pursuant to Section 251.

12
13 Q. ON PAGES 3-4, MR. GILLAN ADVOCATES THE INTERCONNECTION
14 AGREEMENT LANGUAGE HE BELIEVES IS "NEEDED TO
15 EFFECTUATE THE *TRRO*, AS WELL AS CERTAIN REMAINING
16 CHANGES FROM THE FCC'S EARLIER *TRIENNIAL REVIEW ORDER*
17 (*TRO*)." HAS BELL SOUTH BEEN ABLE TO NEGOTIATE
18 INTERCONNECTION AGREEMENTS WITH CLECS THAT DO IN FACT
19 EFFECTUATE THE *TRRO*?

20
21 A. Yes. As I stated in my direct testimony, 64 CLECs have executed *TRRO*
22 amendments in South Carolina, bringing their interconnection agreements into
23 compliance with current law. In addition to the 64 *TRRO* amendments,
24 BellSouth has entered into 35 new interconnection agreements with *TRRO*-
25 compliant language in South Carolina for a total of 99 *TRRO*-compliant

1 agreements in the state of South Carolina pursuant to which CLECs are
2 purchasing Unbundled Network Elements (“UNEs”). Thus, given the number
3 of CLECs that have been able to reach agreement with BellSouth as to how to
4 effectuate the *TRRO*, it is clear that Mr. Gillan’s proposed language is not in
5 fact “needed” to effectuate the *TRRO*. What is required is the parties’
6 willingness to actually create an agreement that comports with what the FCC
7 has required. BellSouth’s proposed language does that. As is discussed in Ms.
8 Tipton’s testimony, Mr. Gillan’s often does not.

9
10 **Issue 2 and Issue 9 – Definition of DS1 and DS3 Loops and Transport and UNE-P**
11 **Embedded Base during the Transition Period**

12
13 Q. DO YOU AGREE WITH COMPSOUTH’S PROPOSED DEFINITION OF
14 “EMBEDDED CUSTOMER BASE” USED IN EXHIBIT JPG-1?

15
16 A. No. Throughout Exhibit JPG-1, Mr. Gillan defines the “embedded base” as a
17 CLEC’s customers and the services subscribed to by such customers instead of
18 the actual UNE service arrangement that has been provisioned. His customer-
19 based definition, however, conflicts with the FCC’s rules which use a service-
20 based definition. For example, for DS1 and DS3 loops and transport, the FCC
21 defines the embedded base by the actual loop or transport facility that is
22 provided to the CLEC and states that only those facilities that have been
23 provisioned as of the effective date of the *TRRO* should be included in the

1 embedded base. 47 C.F.R. § 51.319.² For local switching, the FCC's rules
2 state that "[r]equesting carriers may not obtain new local switching as an
3 unbundled network element." 47 C.F.R. §51.319(d)(2)(iii).

4
5 BellSouth's proposed language in Attachment 2 follows the FCC's definition
6 more closely by defining the embedded base as the actual individual UNE
7 service arrangement, i.e., the actual loop, local switching element, or dedicated
8 transport element.

9
10 The difference between CompSouth's proposed definition and the FCC's rules
11 is that CompSouth is defining the embedded base to mean the CLEC's
12 customers versus the FCC's definition that is based on the actual UNE service
13 arrangement or a carrier requesting (or not requesting) service. This difference
14 is important because it impacts whether a CLEC can order new UNE service
15 arrangements for its existing customer (whether at the same or a new location)
16 during the transition period. It also raises issues relating to the actual
17 transition and any true-ups associated for such time period.

18
19 Q. AS COMPSOUTH'S LANGUAGE PROPOSES AND MR. WATTS'
20 SUGGESTS (PAGE 8), IS A CLEC ALLOWED TO CONTINUE
21 ORDERING UNE-P FOR ITS EMBEDDED BASE DURING THE
22 TRANSITION PERIOD?

² See 47 C.F.R. §51.319(a)(4)(iii) for the definition of the embedded base for DS1 loops. See also 47 C.F.R. §51.319(a)(5)(iii) for the definition of the embedded base for DS3 loops; 47 C.F.R. §51.319(e)(2)(ii)(C) for the definition of the embedded base for DS1 dedicated transport; and 47 C.F.R. §51.319(e)(2)(iii)(C) for the definition of the embedded base for DS3 dedicated transport.

1

2 A. In accordance with this Commission's *Order Addressing Petition for*
3 *Emergency Relief*,³ yes. However, as I stated in my direct testimony,
4 BellSouth generally disagrees with this Commission's conclusions relating to
5 this issue and believes that the plain language of the *TRRO* bars all new "UNE-
6 P arrangements," not just those used to serve new customers. *TRRO* ¶227.

7

8 Q. MR. WATTS (PAGE 8) ALLEGES THAT, BASED ON BELL SOUTH'S
9 INTERPRETATION OF THE *TRRO*, A CLEC CAN NOT MERGE
10 ANOTHER CLEC'S EMBEDDED BASE INTO ITS EMBEDDED BASE. IS
11 THAT BELL SOUTH'S POSITION?

12

13 A. No. This is one of many issues which would be handled as part of negotiation
14 of a transfer agreement pursuant to a merger of two CLECs. The mergers and
15 acquisitions process developed by BellSouth is outlined in BellSouth's Carrier
16 Notification SN91083998, dated March 10, 2004.

17

18 **Issue 7 – Non-Impaired Wire Centers**

19

20 Q. DOES ANY CLEC WITNESS PROVIDE TESTIMONY WITH RESPECT
21 TO THIS ISSUE?

22

23 A. No. However, in Exhibit JPG-1 under Issue 7 (page 21), CompSouth states

³ *Order Addressing Petition for Emergency Relief*, Docket No. 2004-316-C,
Order No. 2005-247, issued August 1, 2005.

1 that it accepts that “changed circumstances” will not alter a wire center’s
2 designation as non-impaired pursuant to the *TRRO*. Alternatively, CompSouth
3 does propose language to address situations in which BellSouth “mistakenly”
4 lists a wire center as non-impaired and a CLEC relies upon such designation to
5 its detriment.

6
7 Q. DOES BELLSOUTH AGREE WITH COMPSOUTH’S PROPOSED
8 LANGUAGE?

9
10 A. Not in its entirety. BellSouth does agree with CompSouth that, if BellSouth
11 were to designate a wire center as non-impaired and a determination was later
12 made that the wire center should not have been on the non-impaired wire
13 center list, then BellSouth should refund any amounts due to a CLEC that,
14 under certain circumstances, had obtained tariffed high capacity loops and
15 dedicated transport in that wire center. BellSouth, however, does not agree to
16 the language in its entirety as proposed by CompSouth and has provided a
17 redline of such language attached to Ms. Tipton’s rebuttal testimony as Exhibit
18 PAT-5. BellSouth’s proposed contract language is more reasonable because it
19 makes clear precisely the circumstances in which a refund would be made and
20 delineates also the amount of any such refund. In contrast, CompSouth uses
21 language that is less precise. CompSouth also uses terms that are somewhat
22 inflammatory, such as “mistakenly” and “relies to its detriment”. This type of
23 language reflects CLEC rhetoric and not commercially reasonable terms.

1 **Issue 13 – Removal of De-listed Elements from BellSouth’s SQM/SEEM Plan**

2

3 Q. MR. GILLAN (PAGES 54-55), SUPPORTED BY MS. CONQUEST (PAGE
4 6), ARGUES THAT ELEMENTS PROVIDED UNDER SECTION 271
5 MUST BE INCLUDED IN STATE PERFORMANCE PLANS. DO YOU
6 AGREE?

7

8 A. No. The purpose of establishing an SQM/SEEM Plan, referred to as the
9 Incentive Payment Plan (“IPP”) in South Carolina, was to ensure that
10 BellSouth met and continues to meet its parity obligations under Section 251
11 of the Act. The requirement to provide nondiscriminatory access to its
12 network is a Section 251(c)(3) obligation. The FCC, in granting BellSouth
13 authority to provide long distance services in South Carolina, stated that
14 because the South Carolina plan is “precisely the same as the Georgia SEEM
15 plan,” it accorded the plan “the same probative value” as the Georgia plan and
16 believed that the South Carolina plan provided “sufficient incentives to foster
17 post-entry compliance.”⁴ Interestingly, the FCC also stated:

18 “[A]s we stated in the *BellSouth Georgia/Louisiana Order*, the
19 performance plans adopted by each state commission do not represent
20 the only means of ensuring that BellSouth continues to provide
21 nondiscriminatory service to competing carriers. In addition to the
22 financial penalties imposed by these plans, BellSouth faces other

⁴ *In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., And BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services In Alabama, Kentucky, Mississippi, North Carolina, and South Carolina*, CC Docket No. 02-150, *Memorandum Opinion and Order*, FCC 02-260, issued September 19, 2002, ¶ 293 (“5-State 271 Approval Order”).

1 consequences if it fails to sustain a high level of service to competing
2 carriers, including federal enforcement action pursuant to section
3 271(d)(6), liquidated damages under dozens of interconnection
4 agreements, and remedies associated with antitrust and other legal
5 actions.”⁵

6 Thus, it is clear that the FCC did not rely solely on the presence of a
7 performance measurements plan when granting long-distance approval to
8 BellSouth.

9
10
11 Indeed, the structure of the SQM/SEEM Plan demonstrates that it should not
12 include Section 271 elements. As this Commission is aware, the SQM/SEEM
13 Plan establishes a retail analogue or benchmark for each Section 251 element
14 BellSouth provides. This mechanism allows the Commission to compare
15 BellSouth’s performance for its retail customers to BellSouth’s performance
16 for CLECs and to determine if BellSouth is providing service at parity.

17
18 There is no parity obligation for Section 271 elements. Consequently, it is
19 neither necessary nor appropriate to compare BellSouth’s performance for such
20 Section 271 elements provided to CLECs to BellSouth’s retail performance,
21 and it certainly is not appropriate for BellSouth to be subject to any
22 SQM/SEEM penalties for Section 271 elements.

23

⁵ *5-State 271 Approval Order*, ¶ 294.

1 Importantly, and as I discussed in my direct testimony, the removal of de-listed
2 elements from the performance measurement plan does not mean that
3 BellSouth will no longer meet its provisioning commitments. Indeed, the fact
4 that the elements are no longer required under Section 251 means that there are
5 competitive alternatives available, and if BellSouth were to fail to meet its
6 commitments, CLECs have other options for serving their end user customers.
7 Many of BellSouth's tariffs contain provisioning commitments that, if missed,
8 carry substantial penalties payable to the customer, as well as out-of-service
9 refund commitments. Thus, the removal of de-listed elements from
10 BellSouth's performance plan does not mean that BellSouth will be able to
11 ignore its commitments. It simply means that there are market forces that
12 penalize BellSouth in the event that BellSouth fails to meet its commitments.

13

14 Q. IS THE SECTION ENTITLED "HOT CUT PERFORMANCE" IN
15 COMPSOUTH'S PROPOSED LANGUAGE UNDER ISSUE 10 (PAGE 27
16 OF EXHIBIT JPG-1) NECESSARY?

17

18 A. No. The language proposed by CompSouth with respect to hot cut
19 performance should not be included because hot cut performance
20 measurements are already included in the current SQM/SEEM Plan. The
21 Commission should not accept CompSouth's language, because any reference
22 or additional language in Attachment 2 would be duplicative and potentially
23 contradictory to the SQM/SEEM Plan already agreed to by CompSouth and
24 approved by this Commission.

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Issue 30 – Implementation of FCC “All-or-nothing” Order

Q. DID ANY CLEC WITNESS ADDRESS THIS ISSUE?

A. Before I respond, it is BellSouth’s understanding that this issue has been settled. However, in an effort to provide complete testimony, I will respond with the following: Yes, US LEC’s witness, Ms. Wanda Montano, is the only witness who addressed Issue 30. Ms. Montano simply stated that US LEC and BellSouth have entered into an amendment implementing the “all-or-nothing” rule as revised by the FCC’s *Second Report and Order*.

Q. DOES THE FACT THAT NO OTHER CLEC WITNESS ADDRESSED ISSUE 30 OR PROVIDED EVIDENCE WITH RESPECT TO ISSUE 30 HAVE AN IMPACT ON HOW THIS COMMISSION SHOULD DETERMINE THIS ISSUE?

A. Yes. BellSouth provided direct testimony proposing language for this Commission to adopt and also provided BellSouth’s rationale for such language. The fact that the one witness who did address this issue has already reached agreement with BellSouth demonstrates BellSouth’s willingness to negotiate acceptable language if presented the opportunity. No other witness has proposed alternative language for BellSouth to consider and either support or rebut. The Commission should, therefore, approve BellSouth’s proposed language.

1

2 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

3

4 A. Yes.

5 #603100

STATE OF SOUTH CAROLINA

)

CERTIFICATE OF SERVICE

)

COUNTY OF RICHLAND

)

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth Telecommunications, Inc.'s Rebuttal Testimony of Kathy K. Blake in Docket No. 2004-316-C to be served upon the following this September 29, 2005.

Florence P. Belser, Esquire
General Counsel
Post Office Box 11263
Columbia, South Carolina 29211
(Office of Regulatory Staff)
(U. S. Mail and Electronic Mail)

Jocelyn G. Boyd, Esquire
Staff Attorney
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(U. S. Mail and Electronic Mail)

F. David Butler, Esquire
Senior Counsel
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(U. S. Mail and Electronic Mail)

Joseph Melchers
Chief Counsel
S.C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(U.S. Mail and Electronic Mail)

RECEIVED
2005 SEP 29 PM 3:17
SC PUBLIC SERVICE
COMMISSION

Robert E. Tyson, Jr., Esquire
Sowell Gray Stepp & Laffitte
1310 Gadsden Street
Columbia, South Carolina 29211
(ITC^DeltaCom Communications, Inc.)
(CompSouth)
(U. S. Mail and Electronic Mail)

M. John Bowen, Jr., Esquire
Margaret M. Fox, Esquire
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(SCTC)
(U. S. Mail and Electronic Mail)

William Atkinson, Esquire
Attorney, State Regulatory
3065 Cumberland Circle
Mailstop GAATLD0602
Atlanta, Georgia 30339
(United Telephone Company of the Carolinas and
Sprint Communications Company, L.P.)
(U. S. Mail and Electronic Mail)

Russell B. Shetterly, Esquire
P. O. Box 8207
Columbia, South Carolina 29202
(Knology of Charleston and Knology of
South Carolina, Inc.)
(U. S. Mail and Electronic Mail)

Darra W. Cothran, Esquire
Woodward, Cothran & Herndon
1200 Main Street, 6th Floor
Post Office Box 12399
Columbia, South Carolina 29211
(MCI WorldCom Network Service, Inc.
MCI WorldCom Communications and
MCImetro Access Transmission Services, Inc.)
(U. S. Mail and Electronic Mail)

John J. Pringle, Jr., Esquire
Ellis Lawhorne & Sims, P.A.
Post Office Box 2285
Columbia, South Carolina 29202
(AT&T)
(U. S. Mail and Electronic Mail)

Marsha A. Ward, Esquire
Kennard B. Woods, Esquire
MCI WorldCom, Inc.
Law and Public Policy
6 Concourse Parkway, Suite 3200
Atlanta, Georgia 30328
(MCI)
(U. S. Mail and Electronic Mail)

Frank R. Ellerbe, Esquire
Bonnie D. Shealy, Esquire
Robinson, McFadden & Moore, P.C.
1901 Main Street, Suite 1200
Post Office Box 944
Columbia, South Carolina 29202
(South Carolina Cable Television Association)
(U. S. Mail and Electronic Mail)

Scott A. Elliott, Esquire
Elliott & Elliott
721 Olive Street
Columbia, South Carolina 29205
(Sprint/United Telephone)
(U. S. Mail and Electronic Mail)

Marty Bocock, Esquire
Director of Regulatory Affairs
1122 Lady Street, Suite 1050
Columbia, South Carolina 29201
(Sprint/United Telephone Company)
(U. S. Mail and Electronic Mail)

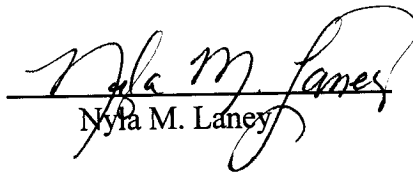
Bonnie D. Shealy, Esquire
Robinson McFadden & Moore, P. C.
1901 Main Street, Suite 1200
P. O. Box 944
Columbia, South Carolina 29202
(US LEC of South Carolina)
(U. S. Mail and Electronic Mail)

Andrew O. Isar
Director – State Affairs
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335
(ASCENT)
(U. S. Mail and Electronic Mail)

Nanette Edwards, Esquire
ITC^DeltaCom Communications, Inc.
4092 S. Memorial Parkway
Huntsville, Alabama 25802
(U. S. Mail and Electronic Mail)

Henry Campen, Esquire
Parker, Poe, Adams & Bernstein, L.L.P.
150 Fayetteville Street Mall, Suite 1400
Raleigh, North Carolina 27601
(US LEC of South Carolina)
(U. S. Mail and Electronic Mail)

Glenn S. Richards, Esquire
Shaw Pittman LLP
2300 N. Street, NW
Washington, DC 20037
(AmeriMex Communications Corp.)
(U. S. Mail and Electronic Mail)



Nyla M. Laney

1 **BELLSOUTH TELECOMMUNICATIONS, INC.**
2 **REBUTTAL TESTIMONY OF ERIC FOGLE**
3 **BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**
4 **DOCKET NO. 2004-316-C**
5 **SEPTEMBER 29, 2005**

RECEIVED
2005 SEP 29 11 17
SC PUBLIC SERVICE
COMMISSION

6
7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8 TELECOMMUNICATIONS, INC. ("BELLSOUTH"), AND YOUR
9 BUSINESS ADDRESS.

10
11 A. My name is Eric Fogle. I am employed by BellSouth Resources, Inc., as a
12 Director in BellSouth's Interconnection Marketing Organization. My business
13 address is 675 West Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. ARE YOU THE SAME ERIC FOGLE THAT FILED DIRECT TESTIMONY
16 IN THIS DOCKET?

17
18 A. Yes. I filed direct testimony on August 23, 2005.

19
20 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

21
22 A. The purpose of my rebuttal testimony is to provide BellSouth's response to the
23 testimony and proposed contract language contained in the direct testimony of
24 Joseph Gillan on behalf of The Competitive Carriers of the South, Inc.
25 ("CompSouth") for Issues 6, 17, 18, 19, 20, 23, 24, 25, 26, 27, and 28.

1 To the extent that the parties provided Interconnection Agreement (“ICA”)
2 language supporting their positions on the issues, BellSouth has provided an
3 edited version of the parties’ proposed ICA language, attached to Pam Tipton’s
4 rebuttal testimony as PAT-5. This exhibit is provided to illustrate the ICA
5 language that is acceptable to BellSouth. BellSouth has also considered
6 additional modifications to some of the issues that I address, and my testimony
7 includes additional language that is acceptable to BellSouth that is not included
8 within exhibit PAT-5. I will explain BellSouth’s redlines and the additional
9 language that I include for the issues I address in this rebuttal testimony.

10

11 *Issue 6: Are HDSL-capable copper loops the equivalent of DS1 loops for the*
12 *purpose of evaluating impairment?*

13

14 Q. WHAT ARE THE DISAGREEMENTS BETWEEN THE PARTIES
15 CONCERNING THIS ISSUE?

16

17 A. There are two (2) overall disagreements. First, the parties disagree about how
18 to count Unbundled Network Element (“UNE”) High-bit Digital Subscriber
19 Loop (“HDSL”) lines for the purpose of evaluating impairment. Second, the
20 parties disagree as to whether there should be continued access to UNE HDSL-
21 capable loops in wire centers in which Competitive Local Exchange Carriers
22 (“CLECs”) are not impaired and are not entitled to obtain UNE DS1 loops.

23

24 Q. WITH RESPECT TO THE FIRST DISAGREEMENT, DID BELL SOUTH
25 COUNT UNE HDSL-CAPABLE LOOPS AS DS1 EQUIVALENTS FOR

1 THE PURPOSE OF EVALUATING IMPAIRMENT?

2
3 A. No. As I stated in my direct testimony, BellSouth counted UNE HDSL
4 capable copper loops on a one-for-one basis and did not convert each UNE
5 HDSL-capable loop to voice grade equivalents. If BellSouth had counted
6 UNE HDSL-capable copper loops as voice grade equivalents, it would have
7 had no impact to the South Carolina wire center list. BellSouth elected to
8 conservatively calculate deployed UNE HDSL loops, although it would have
9 been appropriate to convert deployed UNE HDSL capable loops to voice grade
10 equivalents. While Mr. Gillan expressed concerns about calculating UNE
11 HDSL-capable loops, (Direct Testimony of Joseph Gillan, pp. 26-30), these
12 concerns appear to be overstated.

13
14 In any event, I understand the Federal Communications Commission ("FCC")
15 to have contemplated that currently deployed UNE HDSL loops would be
16 counted as the equivalent of 24 business lines based upon statements made in
17 the Triennial Review Order ("*TRO*") that, "Carriers frequently use a form of
18 DSL service, i.e., High-bit rate DSL (HDSL), both two-wire and four-wire
19 HDSL, as the means for delivering T1 services to customers. We will use DS1
20 for consistency but note that a DS1 loop and a T1 are equivalent in speed and
21 capacity, both representing the North American standard for a symmetric
22 digital transmission link of 1.544 Mbps."

23
24 Because HDSL and DS1 loops are technically equivalent, and because the
25 FCC clearly references the use of HDSL technology to deliver DS1 service, it

1 is clearly appropriate to count currently-deployed UNE HDSL loops delivering
2 DS1 level service as a 24-line equivalents. To avoid a dispute on this issue,
3 however, BellSouth counted UNE HDSL loops as one (line) instead of 24
4 business lines in its nonimpairment analysis.

5
6 Q. TURNING TO THE SECOND AREA OF DISAGREEMENT, WHY DOES
7 BELL SOUTH CONCLUDE THAT CLECS ARE NOT ENTITLED TO UNE
8 HDSL LOOPS IN OFFICES WHERE NO IMPAIRMENT FOR DS1 LOOPS
9 EXISTS?

10
11 A. The FCC has defined DS1 loops to include 2-wire and 4-wire copper loops
12 capable of providing DS1 service using HDSL technology in its definition of
13 DS1 loops. (47 C.F.R. § 51.319(a)(4). BellSouth has included the FCC's
14 definition in its ICA language, which provides that "DS1 Loops include 2-wire
15 and 4-wire copper Loops capable of providing high-bit rate digital subscriber
16 line services, such as 2-wire and 4-wire HDSL Compatible Loops." (See PAT-
17 1, Section 2.3.6.1) Based upon the FCC's definition, DS1 loop relief includes
18 relief from the obligation to provide UNE HDSL loops.

19
20 It is also useful to keep in mind that BellSouth is not attempting to restrict
21 CLECs from using HDSL *technology*. In fact, the import of the FCC's Order
22 is to encourage CLECs to deploy this technology on their own. CLECs can
23 order Unbundled Copper Loops ("UCLs") with loop make-up ("LMU") to
24 determine if a specific loop meets their criteria for deploying HDSL-based
25 DS1 service and continue to avail themselves of HDSL technology. However,

1 without impairment, there is no reason to compel BellSouth to continue to
2 provide a loop product that is simply an indicator of a pre-defined set of
3 conditions suitable for supporting HDSL technology, as the CLECs can
4 provide this capability on their own. In other words, in offices where there is
5 impairment, the UNE HDSL-capable loop that CLECs order today will remain
6 unchanged. In offices where there is no impairment, the UNE HDSL-capable
7 loop Universal Service Order Code ("USOC") that CLECs previously ordered
8 (albeit infrequently) will no longer be available, but the exact same copper
9 loop that could be ordered previously via the UNE HDSL-capable loop USOC
10 is still available, and can be ordered using the UCL USOC. CLECs would
11 need to check LMU to determine if the UCL being ordered meets the HDSL
12 criteria. If the only reasons that the UCL does not meet the criteria are the
13 presence of load coils or excessive bridged taps, then the CLEC can order
14 ULM to make the necessary changes.

15

16 Q: WHAT WOULD BE THE IMPACT TO CLECS IF BELL SOUTH IS NOT
17 REQUIRED TO PROVIDE UNE HDSL LOOPS IN CERTAIN OFFICES?

18

19 A. There would be minimal impact to CLECs. BellSouth's records indicated that
20 in the entire state as of the end of August, BellSouth provided 358 UNE HDSL
21 loops to all CLECs. By allowing CLECs to order UCLs instead of a UNE
22 HDSL loop, the reality is that BellSouth is simply trying to follow the FCC's
23 rules, which also has the result of simplifying BellSouth's ordering systems.

24

25 Q. WHAT ICA LANGUAGE DO THE CLECS PROPOSE WITH RESPECT TO

1 HDSL LOOPS?

2

3 A. The CLECs propose ICA language that states “HDSL-capable loops are not the
4 equivalent of DS1 loops for the purpose of counting Business Lines.” (Gillan
5 Exhibit JPG-1, p. 20). This language improperly creates a distinction between
6 HDSL and DS1 loops, when such a distinction does not exist. BellSouth
7 recommends that the Commission reject CompSouth’s proposed language
8 from any approved contract language that results from this proceeding.

9

10 ***Issue 17: Is BellSouth obligated pursuant to the Telecommunications Act of 1996***
11 ***and FCC Orders to provide line sharing to new CLEC customers after October 1,***
12 ***2004?***

13

14 Q. PLEASE SUMMARIZE THE DISAGREEMENTS BETWEEN THE
15 PARTIES.

16

17 A. Even though the FCC has made clear in paragraphs 199, 260, 261, 262, 264,
18 and 265 of the *TRO* that BellSouth is not obligated to provide new line sharing
19 arrangements after October 1, 2004, the CLECs propose ICA language (Gillan
20 Attachment JPG-1, Section 2.11) that would obligate BellSouth to continue to
21 provide access to line sharing as an unbundled network element. This
22 language should be rejected in its entirety.

23

24 Q. HAVE THE CLECS PROVIDED ANY EXPLANATION FOR THEIR LINE
25 SHARING CONTRACT LANGUAGE?

1

2 A. No. Although Mr. Gillan has included contract language, he failed to include
3 any discussion supporting that language, which is likely because this issue is
4 more of a legal dispute, which both parties have briefed. For more information
5 on this issue, I refer the Commission to BellSouth's summary judgment briefs.

6

7 ***Issue 18: If the answer to the foregoing issue is negative, what is the appropriate***
8 ***language for transitioning off a CLEC's existing line sharing arrangements?***

9

10 Q. WHAT IS THE DISAGREEMENT BETWEEN THE PARTIES
11 CONCERNING THIS ISSUE?

12

13 A. The CLECs' proposed contract language does not include the FCC's transition
14 plan. The CLECs' omission is clear when the language at my direct exhibit
15 EF-1 at 3.1.2 is compared with Mr. Gillan's proposed language at JPG-1,
16 Section 3.1.3. The Commission should simply reject the CompSouth language
17 and adopt BellSouth's transition language (provided in my direct testimony as
18 Exhibit EF-1), which includes the FCC's transition plan. BellSouth's proposed
19 language also requires CLECs that have ordered line sharing arrangements
20 after October 1, 2004 to pay the full loop rate for those arrangements.
21 CompSouth's proposed language omits such a requirement.

22

23 ***Issue 19: What is the appropriate ICA language to implement BellSouth's***
24 ***obligations with regard to line splitting?***

25

1 Q. PLEASE SUMMARIZE THE DISAGREEMENTS BETWEEN THE
2 PARTIES.

3

4 A. Based on the ICA language proposed by Joseph Gillan (Exhibit JPG-1, Section
5 3), the parties' disagreement centers on the types of loops that should be
6 included with line splitting, and who should provide the splitter.

7

8 Q. DOES THE ADDITIONAL LOOP TYPE INTRODUCED BY COMPSOUTH
9 REQUIRE LINE SPLITTING?

10

11 A. No. BellSouth's contract language (Section 3 in Attachment 2) provides for
12 line splitting over Unbundled Network Element-Loop ("UNE-L"), and, for a
13 limited time, with Unbundled Network Element-Platform ("UNE-P")
14 arrangements. The proposed CompSouth ICA language attempts to require
15 line splitting on a commingled arrangement of a loop and unbundled local
16 switching pursuant to section 271. The loop described by CompSouth does
17 not exist, is not required by the FCC, and, therefore, should not be included in
18 the section of the ICA that addresses line splitting.

19

20 Q. WHAT DISAGREEMENT EXISTS CONCERNING SPLITTERS?

21

22 A. It appears that the CLECs propose that BellSouth be obligated to provide
23 splitters between the data and voice CLECs that are splitting a UNE-L. As I
24 stated in my direct testimony, splitter functionality can easily be provided by
25 either an inexpensive stand-alone splitter or by utilizing the integrated splitter

1 built into all Asynchronous Digital Subscriber Line (“ADSL”) platforms.
2 Clearly, BellSouth should not be obligated to provide the CLECs with splitters
3 when they are utilizing UNE-L and can readily provide this function for
4 themselves.

5

6 ***Issue 20: SUB-LOOP CONCENTRATION: a) What is the appropriate ICA***
7 ***language, if any, to address sub loop feeder or sub loop concentration? b) Do the***
8 ***FCC’s rules for sub loops for multi-unit premises limit CLEC access to copper***
9 ***facilities only or do they also include access to fiber facilities? c) What are the***
10 ***suitable points of access for sub-loops for multi-unit premises?***

11

12 Q. HAVE THE CLECS PROVIDED ANY DIRECT TESTIMONY ON THIS
13 ISSUE?

14

15 A. Not as to Issue 20(a). In Georgia, the parties agreed to remove Issue 20(a), as
16 an active issue. With respect to subparts (b) and (c), those were issues that
17 were added to the Joint Issues List at the request of Sprint. Sprint did not file
18 testimony in South Carolina, and BellSouth and Sprint have reached an
19 agreement in principle that resolves all issues between the two companies
20 except Issue 6. Based on this apparent lack of disagreement, this Commission
21 should either remove this issue in its entirety or accept BellSouth’s proposed
22 ICA language in its entirety.

23

24 ***Issue 23: (a) What is the appropriate definition of minimum point of entry***
25 ***(“MPOE”)? (b) What is the appropriate language to implement BellSouth’s***

1 *obligation, if any, to offer unbundled access to newly-deployed or ‘greenfield’ fiber*
2 *loops, including fiber loops deployed to the MPOE of a multiple dwelling unit that is*
3 *predominantly residential, and what, if any, impact does the ownership of the inside*
4 *wiring from the MPOE to each end user have on this obligation?*

5

6 *Issue 24: What is the appropriate ICA language to implement BellSouth’s*
7 *obligation to provide unbundled access to hybrid loops?*

8

9 *Issue 28: What is the appropriate language, if any, to address access to overbuild*
10 *deployments of fiber to the home and fiber to the curb facilities?*

11

12 Q. DID THE CLECS PROVIDE ANY DIRECT TESTIMONY ON THESE
13 ISSUES?

14

15 A. No.

16

17 Q. DOES BELL SOUTH AGREE WITH ANY OF THE CLECS’ PROPOSED
18 ICA LANGUAGE?

19

20 A. Yes. BellSouth agrees with the CLECs’ proposed language for access to Fiber
21 to the Home and Fiber to the Curb (“FTTH/FTTC”). (Gillan Exhibit JPG-1,
22 Paragraphs 2.1.2, 2.1.2.1, and 2.1.2.2, Issue 23). BellSouth does not agree
23 with CompSouth’s proposed language at Paragraph 2.1.2.3.

24

25 Q. WHAT IS THE DISPUTE BETWEEN THE PARTIES CONCERNING

1 COMPSOUTH’S PROPOSED PARAGRAPH 2.1.2.3?

2

3 A. CompSouth is asking BellSouth to agree to language that provides it with an
4 unlimited right to FTTH/FTTC DS1 loops in impaired wire centers based on
5 its reading of the FCC’s *TRO* and subsequent reconsideration orders.
6 BellSouth is willing to replace CompSouth’s proposed paragraph 2.1.2.3 with
7 the following language:

8 FTTH/FTTC loops do not include local loops to predominantly
9 business MDUs.

10

11 Also, because there are pending motions for reconsideration at the FCC,
12 subsequent FCC action that may clarify this issue would need to be addressed
13 through the change of law provisions of the interconnection agreement
14 between the parties, as applicable. Thus, if the FCC addresses pending
15 motions for reconsideration and sets forth that relief extends to all fiber
16 deployments, then BellSouth would expect to incorporate any such order into
17 its contracts.

18

19 Q. CAN YOU EXPLAIN MORE FULLY THE DISAGREEMENT BETWEEN
20 BELLSOUTH AND COMPSOUTH?

21

22 A. Yes. The disagreement stems from language within various FCC orders
23 concerning the scope of unbundling relief relating to new fiber deployment. In
24 the *TRO*, the FCC specifically found that “Incumbent LECs do not have to
25 offer unbundled access to newly deployed or “greenfield” fiber loops” (*TRO*, ¶

1 273) and also did not “require incumbent LECs to provide unbundled access to
2 new FTTH loops for either narrowband or broadband services.” *TRO*, ¶ 276.
3 In the FCC’s *MDU Reconsideration Order*, the FCC extended unbundling
4 relief to fiber loops that serve predominantly residential MDUs.¹ Likewise, in
5 the FCC’s *FTTC Reconsideration Order*, the FCC found that, “as with FTTH
6 loops, we find that competitive carriers are not impaired without access to
7 FTTC loops in greenfield deployments.”² Finally, in its *Section 271*
8 *Forbearance Order*, the FCC reiterated that it had previously “distinguished
9 new fiber networks used to provide broadband services for the purposes of its
10 unbundling analysis” and “determined, on a national basis, that incumbent
11 LECs do not have to unbundle certain broadband elements, including FTTH
12 loops in greenfield situations.”³ CompSouth reads language within some of
13 these orders as limited unbundling relief to mass market customers.

14
15 In BellSouth’s view the best reading of the *TRO*, the *MDU Reconsideration*
16 *Order*, the *FTTC Reconsideration Order*, the *271 Forbearance Order*, the
17 rules, and the FCC’s goals of increasing broadband deployment is that the
18 FTTH/FTTC relief extends to all such deployments. For example, the FCC
19 stated in the *TRO* at ¶ 210 that while it adopted “loop unbundling rules specific
20 to each loop type, our obligations and limitations for such loops do not vary
21 based on the customer to be served.” The FCC also recognized that CLECs
22 were leading the deployment of new fiber and that Incumbent Local Exchange

¹ *MDU Reconsideration Order*, FCC Docket Nos. 01-338, 96-98, 98-147 (August 9, 2004), ¶ 4.

² *FTTC Reconsideration Order*, FCC Docket Nos. 01-338, 96-98, 98-147 (October 18, 2004), ¶ 12.

³ *Section 271 Forbearance Order*, FCC Docket Nos. 01-338, 03-235, 03-260, 04-48 (October 27, 2004) ¶ 6.

1 Carriers (“ILECs”) had no competitive advantage in deploying fiber.
2 Likewise, in the *TRO Errata* (issued September 2003), the FCC deleted the
3 word “residential” from its rules defining FTTH loops, so that a fiber-to-the-
4 home loop is a local loop serving an end user’s customer premises (*TRO*
5 *Errata*, ¶37). Also, in the *TRO Errata*, the FCC replaced the words “residential
6 unit” with “end user’s customer premises” in the rules defining new builds, so
7 that an ILEC is not required to provide fiber-to-the-home loop to an end user’s
8 customer premises. (*TRO Errata*, ¶ 38). Finally, in the Errata to the October
9 18, 2004 Order on Reconsideration, the FCC replaced the words “a residential
10 unit” in its rules addressing new builds, so that an ILEC is not required to
11 provide a FTTH or FTTC loop on an unbundled basis when the ILEC deploys
12 such a loop to an end user’s customer premises that has not been served by any
13 loop facility. CompSouth’s proposed contract language is contrary to the
14 FCC’s goals of encouraging the deployment of new fiber networks by
15 mandating access when CLECs are not impaired without FTTH/FTTC loops.

16
17 Q. DOES BELLSOUTH HAVE CONCERNS WITH THE PROPOSED ICA
18 LANGUAGE PROVIDED BY COMPSOUTH REGARDING HYBRID
19 LOOPS (ISSUE 24)?

20
21 A. Yes. CompSouth omitted BellSouth’s paragraph 2.1.2.3 which addresses
22 availability to copper facilities in overbuild areas. With regard to hybrid loops,
23 BellSouth disagrees with the additional language provided by CompSouth that
24 attempts to create an obligation for access to hybrid loops, even if there is no
25 impairment. Specifically, in paragraph 2.1.3, CompSouth proposes, “Where

1 impairment does not exist, BellSouth shall provide such hybrid loop at just and
2 reasonable rates pursuant to Section 271..." This language is not appropriate
3 because, as set forth in its briefs, BellSouth has no obligation to include
4 Section 271 obligations in interconnection agreements entered into under
5 Section 251 and 252 of the Act.

6

7 ***Issue 25: Under the FCC's definition of a loop found in 47 C.F.R. §51.319(a), is a***
8 ***mobile switching center or cell site an "end user customer's premises"?***

9

10 Q. DID THE CLECS PROVIDE ANY DIRECT TESTIMONY ON THIS
11 ISSUE?

12

13 A. No.

14

15 Q. WHAT ICA LANGUAGE DO THE CLECS PROPOSE?

16

17 A. The CLECs have included language at JPG-1, page 52. BellSouth does not
18 object to the CLECs' proposed language and this issue was removed as an
19 active issue during the Georgia change of law docket.

20

21 ***Issue 26: What is the appropriate ICA language to implement BellSouth's***
22 ***obligation to provide routine network modifications?***

23

24 Q. PLEASE SUMMARIZE THE DISAGREEMENTS BETWEEN THE
25 PARTIES.

1

2 A. The parties view Routine Network Modifications and line conditioning
3 differently. BellSouth's position is that line conditioning is a subset of the
4 Routine Network Modifications defined by the FCC in paragraphs 250 and 643
5 of the *TRO*. The CLECs' position is that the obligations for Routine Network
6 Modifications and line conditioning are separate and independent.

7

8 Q. WHY DOES COMPSOUTH CLAIM THAT LINE CONDITIONING IS NOT
9 A SUBSET OF ROUTINE NETWORK MODIFICATIONS?

10

11 A. On Page 59 of his direct testimony, Gillan states that "BellSouth is obligated to
12 condition facilities '... whether or not the incumbent LEC offers advanced
13 services to the end user customer on that copper loop or copper subloop.'"
14 Then, he erroneously concludes that "BellSouth need not routinely condition
15 loop facilities for its own services for it to be obligated to condition facilities
16 for other CLECs." It is the latter conclusion with which BellSouth disagrees.
17 BellSouth is not asserting that it needs to offer advanced services to a specific
18 customer to have a routine network modification obligation. It is necessary,
19 however, for BellSouth to routinely perform network modifications for its own
20 services to have an obligation to perform similar modifications for CLECs.

21

22 In addition, Mr. Gillan points out that the rules for Routine Network
23 Modifications are in a different section of the rules from the line conditioning
24 rules. BellSouth does not disagree that there are separately numbered subparts
25 (or subsections) contained within the federal rules, but both subparts are

1 included within the overall rubric of the FCC's "Specific Unbundling
2 Requirements" at 47 C.F.R. § 51.319. The *TRO* at paragraphs 250 and 643
3 explains the relationship between Routine Network Modifications and line
4 conditioning unbundling requirements. Specifically, in Paragraph 250, the
5 FCC states, "Line conditioning constitutes a form of Routine Network
6 Modification ..." Later, in Paragraph 643, the FCC states, "Line Conditioning
7 is properly seen as a Routine Network Modification" In both cases, the
8 phrase "constitutes a form" and the term "properly" are defined as a "subset."
9 Stated simply, the FCC clearly identifies BellSouth's line conditioning
10 obligation as a subset of BellSouth's routine network modification obligations.
11

12 Q. PLEASE RESPOND TO MR. GILLAN'S EXAMPLE ON PAGE 58 THAT
13 PURPORTS TO ILLUSTRATE THE DIFFERENCE BETWEEN LINE
14 CONDITIONING AND ROUTINE NETWORK MODIFICATIONS.
15

16 A. Mr. Gillan states that "to a large extent, BellSouth's DSL offerings are housed
17 in remote terminals, located closer to customers." He continues, "CLECs, on
18 the other hand, collocate their equipment at the central office and, therefore,
19 must frequently use longer loops." Both claims are inaccurate. Like CLECs,
20 BellSouth started its DSL deployment in central offices, and prefers deploying
21 in central offices where possible. Within BellSouth's service territory, there
22 are a large number of customers that cannot be reached with DSL service from
23 the central office (by either CLECs or BellSouth). In these situations, it is
24 necessary for both BellSouth and the CLECs (which some have chosen to do)
25 to deploy Digital Subscriber Line Access Multiplexers ("DSLAMs") in remote

1 terminals to reach customers. In either case, the CLEC and BellSouth are in
2 the same situation, and must deploy the same equipment to reach the same
3 customers. As a result, there is no distinction between the DSL service offered
4 by BellSouth and the DSL service offered by CLECs that would create a
5 situation where the line conditioning that BellSouth performs for itself would
6 not also be sufficient for CLECs.

7
8 Mr. Gillan on Page 60 continues, stating that line conditioning is an "...
9 obligation that BellSouth must honor *whether or not it would do so for its own*
10 *customers ...*" without any supporting justification for this position.

11
12 Clearly, CompSouth's position attempts to read away the FCC's plain
13 language that specifies that line conditioning is a subset of Routine Network
14 Modifications, and that as a result, BellSouth's line conditioning obligation is
15 based entirely on what it would do for its own customers. In an effort to
16 narrow the dispute between the parties, however, BellSouth can agree to some
17 of CompSouth's proposed contract language as reflected in BellSouth witness
18 Pam Tipton's Exhibit PAT-5.

19
20 ***Item 27: What is the appropriate process for establishing a rate, if any, to allow for***
21 ***the cost of routine network modification that is not already recovered in***
22 ***Commission-approved recurring or non-recurring rates? What is the appropriate***
23 ***language, if any, to incorporate into the ICAs?***

24
25 Q. DID COMPSOUTH PROVIDE ANY DIRECT TESTIMONY OR

1 PROPOSED ICA LANGUAGE ON THIS ISSUE?

2

3 A. No. CompSouth did not provide any direct testimony on this issue, but Mr.
4 Gillan did propose ICA language that only allows BellSouth to recover costs
5 for Routine Network Modifications based on the Total Element Long Run
6 Incremental Cost ("TELRIC") rates already approved by the Commission,
7 even if the Routine Network Modification being requested was not included in
8 the calculation of that rate. Page 61. In contrast, BellSouth's position is that
9 for Routine Network Modifications that have established TELRIC rates
10 approved by this Commission, that the Commission-approved rates would be
11 used. For Routine Network Modifications that have not been included in
12 Commission-approved TELRIC rates, BellSouth proposes that each such
13 situation be handled on an individual case basis, until such time that the
14 Commission approves a rate for the previously unspecified Routine Network
15 Modification.

16

17

18 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

19

20 A. Yes.

21 604045

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF SERVICE
COUNTY OF RICHLAND)

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth Telecommunications, Inc.'s Rebuttal Testimony of Eric Fogle in Docket No. 2004-316-C to be served upon the following this September 29, 2005.

Florence P. Belser, Esquire
General Counsel
Post Office Box 11263
Columbia, South Carolina 29211
(Office of Regulatory Staff)
(U. S. Mail and Electronic Mail)

Jocelyn G. Boyd, Esquire
Staff Attorney
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(U. S. Mail and Electronic Mail)

F. David Butler, Esquire
Senior Counsel
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(U. S. Mail and Electronic Mail)

Joseph Melchers
Chief Counsel
S.C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(U.S. Mail and Electronic Mail)

RECEIVED
2005 SEP 29 PM 3:17
SC PUBLIC SERVICE
COMMISSION

Robert E. Tyson, Jr., Esquire
Sowell Gray Stepp & Laffitte
1310 Gadsden Street
Columbia, South Carolina 29211
(ITC^DeltaCom Communications, Inc.)
(CompSouth)
(U. S. Mail and Electronic Mail)

M. John Bowen, Jr., Esquire
Margaret M. Fox, Esquire
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(SCTC)
(U. S. Mail and Electronic Mail)

William Atkinson, Esquire
Attorney, State Regulatory
3065 Cumberland Circle
Mailstop GAATLD0602
Atlanta, Georgia 30339
(United Telephone Company of the Carolinas and
Sprint Communications Company, L.P.)
(U. S. Mail and Electronic Mail)

Russell B. Shetterly, Esquire
P. O. Box 8207
Columbia, South Carolina 29202
(Knology of Charleston and Knology of
South Carolina, Inc.)
(U. S. Mail and Electronic Mail)

Darra W. Cothran, Esquire
Woodward, Cothran & Herndon
1200 Main Street, 6th Floor
Post Office Box 12399
Columbia, South Carolina 29211
(MCI WorldCom Network Service, Inc.
MCI WorldCom Communications and
MCI metro Access Transmission Services, Inc.)
(U. S. Mail and Electronic Mail)

John J. Pringle, Jr., Esquire
Ellis Lawhorne & Sims, P.A.
Post Office Box 2285
Columbia, South Carolina 29202
(AT&T)
(U. S. Mail and Electronic Mail)

Marsha A. Ward, Esquire
Kennard B. Woods, Esquire
MCI WorldCom, Inc.
Law and Public Policy
6 Concourse Parkway, Suite 3200
Atlanta, Georgia 30328
(MCI)
(U. S. Mail and Electronic Mail)

Frank R. Ellerbe, Esquire
Bonnie D. Shealy, Esquire
Robinson, McFadden & Moore, P.C.
1901 Main Street, Suite 1200
Post Office Box 944
Columbia, South Carolina 29202
(South Carolina Cable Television Association)
(U. S. Mail and Electronic Mail)

Scott A. Elliott, Esquire
Elliott & Elliott
721 Olive Street
Columbia, South Carolina 29205
(Sprint/United Telephone)
(U. S. Mail and Electronic Mail)

Marty Bocock, Esquire
Director of Regulatory Affairs
1122 Lady Street, Suite 1050
Columbia, South Carolina 29201
(Sprint/United Telephone Company)
(U. S. Mail and Electronic Mail)

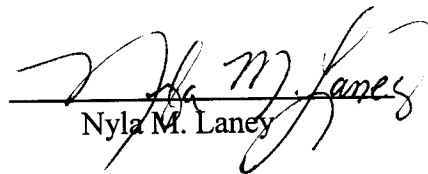
Bonnie D. Shealy, Esquire
Robinson McFadden & Moore, P. C.
1901 Main Street, Suite 1200
P. O. Box 944
Columbia, South Carolina 29202
(US LEC of South Carolina)
(U. S. Mail and Electronic Mail)

Andrew O. Isar
Director – State Affairs
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335
(ASCENT)
(U. S. Mail and Electronic Mail)

Nanette Edwards, Esquire
ITC^DeltaCom Communications, Inc.
4092 S. Memorial Parkway
Huntsville, Alabama 25802
(U. S. Mail and Electronic Mail)

Henry Campen, Esquire
Parker, Poe, Adams & Bernstein, L.L.P.
150 Fayetteville Street Mall, Suite 1400
Raleigh, North Carolina 27601
(US LEC of South Carolina)
(U. S. Mail and Electronic Mail)

Glenn S. Richards, Esquire
Shaw Pittman LLP
2300 N. Street, NW
Washington, DC 20037
(AmeriMex Communications Corp.)
(U. S. Mail and Electronic Mail)


Nyla M. Laney